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#### PROVISIONAL REGULATIONS GOVERNING PEOPLE'S COURTS

The following provisional regulations governing the establishment of people's courts (fa-t'ing) were recently promulgated by the Central and South China Military and Political Council:

##### A. General Principles

Article 1. These provisional regulations are based on Article 17 of the Common Program adopted by the China People's Political Consultative Conference.

Article 2. The people's courts are formed as the law-enforcement agencies of the people's democratic dictatorship and shall perform their duties under the leadership of the people's governments.

Article 3. Through judicial process, the primary functions of the people's courts shall be to insure the enforcement of important social reform policies adopted by the government, to punish criminals who oppose reform measures and oppress the people, or who endanger the security of the nation, to protect the rights of the people, and to safeguard the democratic dictatorship of the people.

##### B. Organization

Article 4. To facilitate the enforcement of social reform measures, the hsien shall be the basic regional unit in which the people's courts will be established. Only one people's court may be set up in a hsien although branches of this court may be established as the need arises. The general rule for the establishment of the branch courts shall be, however, one for every two to three ch'u depending on the population. In addition to these branch courts, a circuit court which moves from village to village to hear cases may be set up. Villages are forbidden to establish their own people's court.

Article 5. The hsien people's court shall be made up of one chief judge and six associate judges. These judges shall be appointed or elected as follows: (1) the chief judge and three of the associate judges shall be appointed by the special office; (2) one of the associate judges shall be elected by the all-circles

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people's delegates conference; and (3) the remaining two associate judges shall be elected by the farmers' delegates conference. The judges elected by these delegates conferences must be approved by the hsien people's government.

The branch court shall be made up of one chief judge and eight associate judges. These judges shall be appointed or elected as follows: (1) the chief judge and two of the associate judges shall be appointed by the hsien people's government; and (2) the remaining six associate judges shall be elected by the farmers' delegates conferences called by the various ch'u which come under the jurisdiction of the branch court. The number of associate judges to be elected by the respective ch'u farmers' delegates conferences shall be based on the number of ch'u under the jurisdiction of the branch court. The judges elected by the farmers' delegates conferences must be approved by the hsien people's government.

Article 6. The hsien people's or branch courts will be required to form their own judicial committee. Decisions and resolutions adopted by these courts must be based on the system of democratic centralism. All decisions of the judicial committees must be based on majority votes.

Article 7. The branch courts are under the direct jurisdiction of the hsien people's court and must follow its guidance. All important cases coming before the branch courts which are beyond their jurisdiction must be referred immediately to the hsien people's court. The power of approving, revising, or overruling the decisions of the branch courts shall be reserved to the hsien people's court. The hsien people's court has the power, moreover, to require the branch courts to turn over any cases being heard by them.

Article 8. The hsien people's courts are under the direct jurisdiction of the hsien people's government. The all-circles people's delegates conference, the farmers' delegates conference, and the people's organizations are also empowered to supervise the hsien people's court. Any judge found incompetent, guilty of malpractices, etc., may be replaced and prosecuted. Vacancies created by dismissal may be filled by appointment or election, depending on whether the post was originally filled by appointment or election.

#### C. Court Jurisdiction

Article 9. The jurisdiction of the hsien people's and branch courts shall be restricted to cases involving the following: (1) prosecution of bandits, usurpers, etc; (2) violation of measures on reduction of interest and rental rates; (3) violation of land-reform measures; (4) violation of governmental policies and laws; (5) violation of social reform measures; (6) disrupting social order; and (7) endangering or hampering people's and national interests.

Generally, all civil and criminal suits shall be tried by the judicial branch of the people's government.

Article 10. The hsien people's and branch courts are empowered to conduct their own investigations of criminals who are accused of violating social reform measures or laws as well as try said persons before their courts.

Article 11. The hsien people's and branch courts are empowered to arrest the accused and try them before their courts in accordance with the law. They also have the power to: (1) mete out sentences of death, imprisonment, or hard labor; (2) fine the accused or make him pay for damages; (3) confiscate the personal property of the accused; (4) make public proclamation of the guilt of the accused; and (5) exonerate the accused.

Article 12. The decisions of the hsien people's and branch courts falling within any of the following categories shall be governed as follows:

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1. Sentences of 5 years or less, or heavy fines, must be approved by both the hsien people's government and the chief of the hsien.

2. Sentences of 5 years or more, life sentences, and confiscation of personal property must be approved by the provincial people's government, or by the special office designated by the special order of the provincial people's government, and the provincial governor, or the head of the special office.

The personal property of only those falling within any of the following categories may be confiscated: (1) bandits, (2) evil tyrants, (3) violators of rent and interest-rate-reduction regulations, (4) war criminals, and (5) reactionaries found guilty of great wrongdoings.

3. Confiscation of factories and commercial firms of criminals must be approved by the provincial people's government and the provincial governor. Confiscation of large-scale factories must be approved by the Central and South China Military and Political Council.

Article 13. The plaintiff or the defendant may appeal the decision of the hsien people's or branch court to higher authorities within a set period (usually 10 to 15 days but in special cases, this period may be extended). Generally, the decision of the people's government /possibly hsien/ is final in an appeal, but the case may be reviewed by the provincial people's government, or the special office designated by the special order of the provincial people's government, within a set period. Decisions appealed to the special office shall be handled by the judicial branch of the special office and its findings become final after approval by the head of the special office. Decisions appealed to the provincial people's government shall be handled by the judicial branch of the provincial people's government and its findings become final after approval by the provincial governor. In any case, the decision of the provincial people's government may not be appealed to any higher authority.

Article 14. People's governments above the hsien level must be on the alert to see that appropriate punishments are meted out by the people's courts against criminals who are found guilty of opposing social reforms to prevent them from hampering our effort toward social improvement.

#### D. Trial and Judgment

Article 15. In the disposition of any case, the hsien people's and branch courts must first try the accused before rendering any judgment against him.

Article 16. After the case is brought before the court for hearing, the hsien people's and branch courts must first conduct a thorough investigation of the witnesses, documents, evidence, etc., before holding a trial. Generally, the cases brought before the court must be tried within a 2-month period.

Article 17. In all trials, the hsien people's and branch courts must adhere strictly to the following cardinal principles:

1. Physical force must not be employed in the questioning of the accused.
2. Factual evidence must always outweigh hearsay or prima-facie evidence.
3. The reputation of the accused must not be brought out in the questioning.

Article 18. In the adjudication of any case, the following procedure must be followed:

1. Trial -- Before the trial is held, the court must examine all documents and evidence. At the trial, representatives from the local people's

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organizations who are interested in the case must be invited to attend the hearing. They may be asked to sit as the jury and will be empowered to express their own opinions. The accused, represented by his attorney, must be given an opportunity to present his case to defend himself.

2. Judgment -- After the judicial committee thoroughly examines the documents, evidence, etc., presented during the trial, it shall render its judgment which will be read before the court. In addition to the accuser and the accused, the local populace will be permitted to sit in the court to hear the judgment and may be permitted to express their opinions on the judgment with the approval of the head judge. If the majority of the local populace disagree with the court's judgment, the case may be appealed to the people's government for review.

3. Ordinary cases may be disposed of through the above two steps for final approval by the higher authorities. However, all important trials must be disposed of through the following three steps: preparatory (yu-shen), intermediary (fu-shen) and final (chung-shen) reviews.

In the case of major criminals or criminals found guilty of opposing social reforms, even if a judgment is made against them by the people's courts, a public hearing may be called. During such a hearing, the people may voluntarily present evidence against the accused.

Article 19. All judgments of the hsien people's court must be endorsed and made public by the head judge.

Article 20. After the judgment is announced publicly, the hsien people's or branch court must inquire of the accuser or accused if he accepts the judgment of the court or whether he is going to appeal to the higher authorities.

If an appeal is to be made, the court must inform the person of the time limit set for the appeal. The court of the first instance, moreover, must assemble all documents, evidence, etc., collected in the case and forward them to the higher judicial authority upon receiving the notification that an appeal is to be made. The branch courts of the hsien people's court are empowered to reopen a case if they discover additional evidence which may reverse the previous judgment.

Article 21. By following the procedures outlined in Article 12 of this regulation and after receiving the approval of the proper authorities, the hsien people's and branch courts may mete out judgments of imprisonment, confiscation of personal property, or death sentence against the accused.

#### E. Regulations Governing Disposition of Criminals and Personal Property

Article 22. The judgment of imprisonment or death sentence meted out to the criminal by the people's court must be carried out by a people's government above the ch'u level.

Article 23. Damages collected or land and personal property confiscated by the hsien people's or branch courts must be turned over to the farmers' association for disposition. The association will be responsible for the proper distribution of these accrued assets to local poverty-stricken farmers or persons seeking reparations.

Article 24. Factories and commercial firms confiscated by the court must be turned over to the government and may not be distributed.

#### F. Supplementary Regulations

Article 25. All independent (tan-tu) municipalities are forbidden to establish their own people's court (fa-t'ing) and all cases will come under the jurisdiction of the municipal people's court (fa-yuan).

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In the municipalities which are the seats of the hsien people's government, all cases involving social reforms must be tried by the hsien people's court (fa-t'ing). Other cases may be tried either by the Hsien people's court or the judicial section of the hsien government.

Article 26. These regulations were drafted and are being promulgated by the Central and South China Military and Political Council, and the rights of revision and interpretation of these regulations shall be reserved to this council.

Article 27. Upon publication, these regulations shall supersede the Regulations Governing the People's Courts promulgated by the Central Plains Provisional People's government.

Article 28. These regulations shall become effective from the day of their promulgation.

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